

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AQUARIAN FOUNDATION,

Plaintiff,

v.

BRUCE KIMBERLY LOWNDES, et al.,

Defendants.

Case No. C19-1879RSM

ORDER GRANTING DEFENDANT
WEATHERLY'S MOTION TO DISMISS
FOR LACK OF PERSONAL
JURISDICTION AND GRANTING IN
PART MOTION TO AMEND
COMPLAINT

This matter comes before the Court on Defendant Lynea S. Weatherly's Motion to Dismiss for lack of Personal Jurisdiction. Dkt. #23. Plaintiff Aquarian Foundation ("AF") opposes. Dkt. #26. Given the limited nature of this Motion, the Court has determined that it need not recite the entire set of facts alleged in this case.

AF's 22-page Complaint barely mentions Ms. Weatherly. It states that she "is a former member of AQUARIAN, and believed to, and therefore alleged, to assist the other named Defendants in the acts alleged herein." Dkt. #1 at 4. The Complaint alleges that Defendants have violated AF's copyrights and stolen trade secrets by assisting Defendant Bruce Kimberly Lowndes as his family members or "cohorts." According to AF, Bruce Kimberly Lowndes has "published on-line e-mails to his cohorts in which he describes how his cohorts must subvert

ORDER GRANTING DEFENDANT WEATHERLY'S MOTION TO DISMISS AND
GRANTING IN PART MOTION TO AMEND COMPLAINT - 1

1 Aquarian's published and unpublished works, and has named Defendants Allen and Anne
2 Jenne and Lynn Weatherly in such e-mails." *Id.* at 10.

3 Ms. Weatherly currently lives in Texas. Dkt. #24 ("Weatherly Decl."), ¶ 2. For
4 roughly the last 28 years she was an active member in the Aquarian Foundation in Texas. *Id.*
5 She states via declaration that she has not traveled to Washington State in 15 years and has
6 never transacted business here. *Id.* at ¶ 3. She denies having requested or acquired access to
7 AF materials in or from the State of Washington, or soliciting, advertising, or disseminating
8 any AF information in this State. *Id.* at ¶¶ 4–5.

10 "In opposing a defendant's motion to dismiss for lack of personal jurisdiction, the
11 plaintiff bears the burden of establishing that jurisdiction is proper." *CollegeSource, Inc. v.*
12 *AcademyOne, Inc.*, 653 F.3d 1066, 1073 (9th Cir. 2011). "Where, as here, the defendant's
13 motion is based on written materials rather than an evidentiary hearing, 'the plaintiff need only
14 make a *prima facie* showing of jurisdictional facts to withstand the motion to dismiss.'" *Id.*
15 (quoting *Brayton Purcell LLP v. Recordon & Recordon*, 606 F.3d 1124, 1127 (9th Cir. 2010)).
16 A plaintiff may not simply rest on the "bare allegations of [the] complaint." *Schwarzenegger v.*
17 *Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004) (quoting *Amba Mktg. Sys., Inc. v.*
18 *Jobar Int'l, Inc.*, 551 F.2d 784, 787 (9th Cir. 1977)). But uncontroverted allegations must be
19 taken as true, and "[c]onflicts between parties over statements contained in affidavits must be
20 resolved in the plaintiff's favor." *Id.*

23 Personal jurisdiction over a nonresident defendant is proper if permitted by a state's
24 long-arm statute and if the exercise of that jurisdiction does not violate federal due process.
25 *Fireman's Fund Ins. Co. v. Nat'l Bank of Coops.*, 103 F.3d 888, 893 (9th Cir. 1996). Since
26 Washington's long arm statute reaches only as far as the Due Process Clause, the Court need
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1 only analyze whether the exercise of jurisdiction would comply with due process. *Omeluk v.*
2 *Langsten Slip & Batbyggeri A/S*, 52 F.3d 267, 269 (9th Cir. 1995). For the exercise of
3 jurisdiction to satisfy due process, a nonresident defendant, if not present in the forum, must
4 have “minimum contacts” with the forum such that the assertion of jurisdiction “does not
5 offend traditional notions of fair play and substantial justice.” *Int’l Shoe Co. v. Washington*,
6 326 U.S. 310, 316, 66 S. Ct. 154, 90 L. Ed. 95 (1945) (internal quotation marks omitted). A
7 federal district court may exercise either general or specific personal jurisdiction. *See*
8 *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 414-15, 104 S. Ct. 1868, 80
9 L. Ed. 2d 404 (1984). To establish general jurisdiction, the plaintiff must demonstrate that the
10 defendant has sufficient contacts to “constitute the kind of continuous and systematic general
11 business contacts that approximate physical presence.” *Glencore Grain Rotterdam B.V. v.*
12 *Shivnath Rai Harnarain Co.*, 284 F.3d 1114, 1124 (9th Cir. 2002) (internal quotation marks
13 omitted). This court uses the following three-part test to analyze whether a party’s “minimum
14 contacts” meet the due process standard for the exercise of specific personal jurisdiction: (1)
15 The non-resident defendant must purposefully direct his activities or consummate some
16 transaction with the forum or resident thereof; or perform some act by which he purposefully
17 avails himself of the privilege of conducting activities in the forum, thereby invoking the
18 benefits and protections of its laws; (2) the claim must be one which arises out of or relates to
19 the defendant’s forum-related activities; and (3) the exercise of jurisdiction must comport with
20 fair play and substantial justice, *i.e.* it must be reasonable. *Schwarzenegger*, 374 F.3d at 802.
21 “If any of the three requirements is not satisfied, jurisdiction in the forum would deprive the
22 defendant of due process of law.” *Omeluk v. Langsten Slip & Batbyggeri A/S*, 52 F.3d 267, 270
23 (9th Cir. 1995). While all three requirements must be met, this court has stated that in its
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1 consideration of the first two prongs, “[a] strong showing on one axis will permit a lesser
2 showing on the other.” *Yahoo! Inc. v. La Ligue Contre Le Racisme Et L’Antisemitisme*, 433
3 F.3d 1199, 1210 (9th Cir. 2006) (en banc).

4 Here, the parties agree that the Court lacks general personal jurisdiction over Defendant
5 Weatherly. *See* Dkt. #26 at 6 (“Plaintiff is claiming jurisdiction over defendant Weatherly
6 based upon specific, not general, jurisdiction.”) Accordingly, the Court will only address
7 specific personal jurisdiction.
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9 As explained above, the Complaint contains almost no details as to Defendant
10 Weatherly’s actions giving rise to the Aquarian Foundation’s claims. In response to this
11 Motion, the Aquarian Foundation states:
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13 Defendant Weatherly, from 1991 through 2019, initiated a
14 voluntary Church membership through communications directly to
15 and from Aquarian in Seattle, and promised to uphold Church
16 practices and policies which was a voluntary submittal to the
17 authority of the Church, Her alleged actions arise out of that
18 membership and relationship, as to the interactions with the Seattle
19 Church and as to the knowledge she gained which allowed her to
20 learn how to betray the teachings and policies of the Church....

21 Here defendant Weatherly knew that plaintiff Aquarian is located
22 in Seattle Washington. She knew that she was infringing upon
23 copyrights and trademarks by helping defendant Lowndes to reach
24 the very people who would be interested in obtaining his collection
25 of Aquarian publications, under the auspices of a website that
26 appears to be authorized by the plaintiff. She helped Ms. Maraj
27 navigate the vk.com website, which employs its misleading use of
28 the Works, words and imagery that imply—often by direct usage
of trademarked images—it is sanctioned or sponsored by plaintiff.
This is an intentional act and the act is directly connected to her
seeking membership in the Seattle Church, learning about the
Church, being aware of the lessons of the Masters offered by the
Church, and disagreeing with the hierarchical decision of the
Seattle Church to confine the publication and use of the lessons to
members with a direct individual membership agreement with the
Mother Church.

1 Dkt. #26 at 7.

2 The Court finds that these alleged facts and the other similarly deficient facts in AF's
3 briefing fail to make a prima facie case for specific personal jurisdiction. The allegations of
4 what Ms. Weatherly has done with regard to AF's copyrighted material and trade secrets are
5 simply too vague and fail to mention her contacts with Washington State. The Court agrees
6 with Defendant Weatherly that her previously "seeking membership" in, "learning about," or
7 "being aware of the lessons of the Masters offered by" the Aquarian Foundation, are
8 insufficient to constitute suit-related conduct connected to Washington State. The claims at
9 issue here are that she assisted Bruce Kimberly Lowndes in violating the Aquarian
10 Foundation's copyrights and/or stealing trade secrets or other materials. *See* Dkt. #1. There is
11 no allegation or argument that Ms. Weatherly had any contact with Washington State in so
12 doing. Even if the claims were fleshed out in sufficient detail, Ms. Weatherly's actions were all
13 apparently in Texas. Accordingly, this Court lacks personal jurisdiction over her and will grant
14 her Motion to dismiss under Rule 12(b)(2).¹
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18 Finally, the Court notes that it has reviewed the subsequently-filed Motion to Amend
19 Complaint, Dkt. #58, and finds nothing contained therein that would change the outcome of
20 this Order.² AF has added that Ms. Weatherly "fully understands the property rights of
21 Aquarian," "openly flaunted her intent to ignore copyright matters," and that she operates a
22 website and has introduced others to Bruce Kimberly Lowndes for the purpose of "further and
23 illegally distributing Aquarian's property." Dkt. #58-1 at 5. The Court finds that AF fails to
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25 ¹ The Court notes that *Axiom Foods, Inc. v. Acerchem Int'l, Inc.*, cited by Defendant Weatherly, reminds the Court
26 that it is the defendant's contacts with the forum, and not his or her contacts with the plaintiff, that are relevant for
27 a specific personal jurisdiction inquiry. *See* 874 F.3d 1064, 1070 (9th Cir. 2017) ("...we must look to the
28 defendant's 'own contacts' with the forum, not to the defendant's knowledge of a plaintiff's connections to a
forum.")

² AF confusingly describes their filing as a "contingent motion to preserve plaintiff's right to amend its Complaint
if [Weatherly's Motion to Dismiss] is granted. Dkt. #58 at 2.

1 allege additional minimum contacts with Washington State sufficient to create specific personal
2 jurisdiction over Ms. Weatherly.

3 The Motion to Amend, apparently unopposed, makes other small changes and is
4 otherwise granted. AF is directed to file a version of its proposed Amended Complaint with the
5 proposed changes but without any reference to Defendant Weatherly.
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7 After having reviewed the relevant briefing and the remainder of the record, the Court
8 hereby finds and ORDERS:

- 9 1) Defendant Weatherly's Motion to Dismiss, Dkt. #23, is GRANTED. All claims against
10 Ms. Weatherly are DISMISSED.
11
12 2) Plaintiff Aquarian Foundation's Motion to Amend Complaint, Dkt. #58, is GRANTED
13 IN PART. Plaintiff is to file a modified copy of its Proposed Amended Complaint, Dkt.
14 #58-1, within fourteen (14) days. This copy should be identical to the one on the docket
15 but with all references to Ms. Weatherly as a Defendant removed.
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18 DATED this 3rd day of June, 2020.
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22 RICARDO S. MARTINEZ
23 CHIEF UNITED STATES DISTRICT JUDGE
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